

- A traffic control device plan which includes:
 - an inventory of all traffic control devices;
 - periodic review of existing traffic control devices, including a systematic upgrading of substandard devices to conform with standards contained in the Manual on Uniform Traffic Control Devices;
 - a maintenance schedule adequate to insure proper operation and timely repair of control devices, including daytime and nighttime inspections; and
 - where appropriate, the application and evaluation of new ideas and concepts in applying control devices and in the modification of existing devices to improve their effectiveness through controlled experimentation.

- An implementation schedule which utilizes traffic engineering resources to:
 - review road projects during the planning, design, and construction stages to detect and correct features that may lead to operational safety difficulties;
 - install safety-related improvements as part of routine maintenance and/or repair activities;
 - correct conditions noted during routine operational surveillance of the roadway system to rapidly adjust for the changes in traffic and road characteristics as a means of reducing the frequency and severity of crashes;
 - conduct traffic engineering analyses of all high crash locations and develop corrective measures;
 - analyze potentially hazardous locations—such as sharp curves, steep grades, and railroad grade crossings—and develop appropriate countermeasures;
 - identify traffic control needs and determine short- and long-range requirements;
 - evaluate the effectiveness of specific traffic control measures in reducing the frequency and severity of traffic crashes; and
 - conduct traffic engineering studies to establish traffic regulations, such as fixed or variable speed limits.

Companion Highway Safety Program Manuals (February, 1974), which supplement this guideline, are available from the Federal Highway Administration's Office of Highway Safety. These supplements provide additional information to assist State and local agencies in implementing their roadway safety programs.

V. Outreach Program

While considerable progress has been made in reducing the highway death rate, forecasts of increased highway travel place new demands on the highway system. By necessity, roadways are being reconstructed while open to traffic, which places additional demands on motorists and construction workers. Increasing awareness of roadway-related safety issues will enhance highway safety in construction zones. A proactive roadway safety outreach program will provide critical information to the public on roadway safety issues, explain existing roadway safety features, and establish communication channels among engineers, planners, enforcement personnel, highway

safety advocacy groups, and the motoring public. To encourage outreach in the roadway safety area, States should:

- Identify those groups or individuals that may have an interest in promoting roadway safety, including roadway safety advocacy groups, law enforcement, community advocacy, the medical community, and create an effective communication network among the groups to keep members informed;
- Target specific areas in which the public needs roadway safety information and develop appropriate public information and education materials on various roadway safety issues.

VI. Evaluation

Roadway Safety programs should be periodically evaluated by the State, or appropriate Federal department or agency where applicable, and the Federal Highway Administration should be provided with an evaluation summary. Evaluations should include measures of effectiveness in terms of crash reduction.

[FR Doc. 95-17418 Filed 7-17-95; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 950

[Docket No. R-95-1742; FR-3646-C-03]

RIN 2577-AB43

Indian Housing Program: Amendments; Final Rule; Technical Corrections

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule; technical corrections.

SUMMARY: On April 10, 1995, HUD published a final rule amending the Indian Housing consolidated regulations and moving these regulations from part 905 to a new part 950. This document corrects several minor and inadvertent omissions from that final rule.

EFFECTIVE DATE: The effective date of this correction is July 18, 1995.

FOR FURTHER INFORMATION CONTACT: Dominic Nessi, Deputy Assistant Secretary for Native American Programs, Public and Indian Housing, Room B-133, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410, telephone (202) 755-0032. Hearing- or speech-impaired persons may use the TDD number (202) 708-0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On April 10, 1995, HUD published a final rule

amending the Indian Housing consolidated regulations and moving these regulations from part 905 to a new part 950 (60 FR 18174). These amendments were necessary to simplify program processes, reduce the number of regulatory requirements, and provide more flexibility to local tribal and Indian housing authority officials in the administration of the Indian Housing program.

This document corrects several minor and inadvertent omissions from that final rule. First, this document reinstates the amendments to the definition of annual income that were made by HUD's Combined Income and Rent interim rule, published in the **Federal Register** on April 5, 1995 (60 FR 17388). The Indian Housing final rule and the Combined Income and Rent interim rule were in the final stages of departmental review at the same time. While HUD intended the Indian Housing final rule to be comprehensive, it did not intend to supplant the necessary changes that were made by the Combined Income and Rent interim rule.

Second, this document corrects the section of the Indian Housing final rule regarding the establishment of Indian Housing Authorities (IHAs) by tribal ordinance. The language of the section appears to provide that an IHA, and not the tribe, would enact such an ordinance. Such an interpretation would clearly be incorrect; therefore, this document clarifies that section to reflect that the tribe would enact the ordinance.

Third, this document inserts a provision clarifying that HUD's one-time approval of an IHA's Indian preference methods would continue to apply under the new regulations. This "grandfather" provision was inadvertently omitted from the Indian Housing final rule. HUD intended that those IHAs whose preference methods were already approved under previous requirements would not have to seek approval again under HUD's new, less prescriptive requirements.

Fourth, this document corrects language in the provisions of the Indian Housing final rule regarding the conversion of projects in the Mutual Help Homeownership Opportunity program and the Turnkey III Program. In the Indian Housing final rule, HUD simplified these provisions by eliminating the formal application process. This document will remove the references to that process that are now obsolete but that HUD inadvertently left in the rule.

Fifth, this document reinstates, in subpart H of the Indian Housing final

rule (Lead-Based Paint Poisoning Prevention), a reference that was inadvertently omitted to the Lead-Based Paint Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing. As the preamble to the Indian Housing final rule states (60 FR 18183), HUD did not intend to make changes to the Lead-Based Paint (LBP) provisions in this rule,¹ but only intended to republish them in order to present a consolidated set of regulations. HUD also takes the opportunity in this document to conform the LBP provisions to **Federal Register** requirements by informing the public that they can request a copy of the guidelines from HUD's Office of Lead-Based Paint Abatement and Poisoning Prevention.

Accordingly, FR Doc. 95-8346, a final rule published in the **Federal Register** on April 10, 1995 (60 FR 18174) is corrected as follows:

1. On page 18188, beginning in column three, and ending on page 18190, in column one, § 950.102 is corrected by revising the definition of "Annual income" to read as follows:

§ 950.102 Definitions.

* * * * *

Annual income. Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets, for the 12-month period following the effective date of the initial determination or reexamination of income, exclusive of certain types of income as provided in paragraph (2) of this definition.

(1) Annual income includes, but is not limited to:

(i) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(ii) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from

the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(iii) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (1)(ii) of this definition. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate as determined by HUD;

(iv) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (but see paragraph (2)(xiv) of this definition);

(v) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay (but see paragraph (2)(iii) of this definition);

(vi) *Welfare assistance.* If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could, in fact, allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under paragraph (1)(vi)(B) of this definition shall be the amount resulting from one application of the percentage;

(vii) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling; and

(viii) All regular pay, special pay, and allowances of a member of the Armed Forces (but see paragraph (2)(vii) of this definition).

(2) Annual income does not include the following:

(i) Income from employment of children (including foster children) under the age of 18 years;

(ii) Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone);

(iii) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses (but see paragraph (1)(v) of this definition);

(iv) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(v) Income of a Live-in Aide;

(vi) The full amount of student financial assistance paid directly to the student or to the educational institution;

(vii) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(viii)(A) Amounts received under training programs funded by HUD;

(B) Amounts received by a disabled person that are disregarded for a limited time for purposes of supplemental security income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(C) Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;

(D) A resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by an Indian housing resident for performing a service for the IHA, on a part-time basis, that enhances the quality of life in Indian housing. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time; or

(E) Compensation from State or local employment training programs and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and

¹ However, HUD is developing a proposed rule that would implement sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and set forth new requirements concerning lead-based paint notice, evaluation, and reduction for all of the HUD's programs, including Indian housing.

objectives, and are excluded only for a limited period as determined in advance by the IHA;

(ix) Temporary, nonrecurring, or sporadic income (including gifts);

(x) For all initial determinations and reexaminations of income carried out on or after April 23, 1993, reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(xi) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(xii) Adoption assistance payments in excess of \$480 per adopted child;

(xiii) The earnings and benefits to any resident resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of the U.S. Housing Act of 1937 (42 U.S.C. 1437t), or any comparable Federal, State, tribal, or local law during the exclusion period. For purposes of paragraph (2)(xiii) of this definition, the following definitions apply:

(A) *Comparable Federal, State, tribal, or local law* means a program that provides employment training and supportive services and that:

(1) Is authorized by Federal, State, tribal, or local law;

(2) Is funded by Federal, State, tribal, or local government;

(3) Is operated or administered by a public agency; and

(4) Has as its objective assisting participants in acquiring employment skills.

(B) *Exclusion period* means the period during which the resident participates in a program described in this definition, plus 18 months from the date the resident begins the first job acquired by the resident after completion of such program that is not funded by public housing assistance under the U.S. Housing Act of 1937. If the resident is terminated from employment without good cause, the exclusion period shall end.

(C) *Earnings and benefits* means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job;

(xiv) Deferred periodic payments of supplemental security income and social security benefits that are received in a lump-sum payment;

(xv) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes on the dwelling unit;

(xvi) Amounts paid by a State agency to a family with a developmentally

disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(xvii) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the U.S. Housing Act of 1937. A notice will be published in the **Federal Register** and distributed to IHAs identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

(3) If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized subject to a redetermination at the end of the shorter period.

(4) Any family receiving the reparation payments referred to in paragraph (2)(x) of this definition that has been requested to repay assistance under this part as a result of receipt of such payments shall not be required to make further repayments on or after April 23, 1993.

2. On page 18194, in column three, and immediately before § 950.110, subpart A is corrected by adding a new § 950.103, to read as follows:

§ 950.103 Effective date.

In §§ 950.102, paragraphs (2)(ii), (2)(vi), (2)(viii)(D) through (E), (2)(xi), (2)(xii), (2)(xv), and (2)(xvi) of the definition of *Annual income* shall expire and shall not be in effect after May 6, 1996, unless prior to May 6, 1996, HUD publishes changes to those paragraphs in the definition of *Annual income* in § 950.102 or publishes a notice in the **Federal Register** to extend the effective date.

3. On page 18197, in column three, § 950.126 is corrected by revising paragraph (d)(2), to read as follows:

§ 950.126 Establishment of IHAs by tribal ordinance.

(d) * * *

(2) An IHA must certify that the ordinance has been enacted pursuant to any constitutional law or practice and that it has the local cooperation required by law.

4. On page 18202, in column two, § 950.175 is corrected by revising paragraph (d)(1)(iii), to read as follows:

§ 950.175 Indian preference requirements.

(d) * * *

(1) * * *

(iii) Develop and incorporate into their procurement policy, subject to HUD Area ONAP one-time approval, the IHA's method of providing preference. In no instance shall HUD approve a method that provides preference based upon affiliation or membership in a particular tribe or group of tribes. Indian preference methods adopted by an IHA prior to May 10, 1995 that met the Indian preference requirements of program regulations as they existed immediately before May 10, 1995 are considered to have received one-time approval of the HUD Area ONAP.

5. On page 18226, in column two, § 950.437 is corrected by redesignating paragraph (c)(1) as paragraph (c).

6. On page 18229, in column one, § 950.455 is corrected by revising the second sentence in paragraph (c), to read as follows:

§ 950.455 Conversion of rental projects.

(c) *Submission requirements.* * * *

The HUD Area ONAP shall review the request for legal sufficiency; tribal acceptance; demonstration of family interest; evidence that units are habitable, safe, and sanitary; family qualifications as discussed in paragraph (b)(2) of this section; and financial feasibility. * * *

7. On page 18229, in the first column, § 950.458 is corrected by revising the second sentence in paragraph (c), to read as follows:

§ 950.458 Conversion of Mutual Help projects to rental program.

(c) *Submission requirements.* * * *

The HUD Area ONAP shall review the request for legal sufficiency, tribal acceptance, demonstration of family interest, and financial feasibility. * * *

8. On page 18231, in column one, § 950.503 is corrected by revising the second sentence in paragraph (c), to read as follows:

§ 950.503 Conversion of Turnkey III developments.

(c) *Submission requirements.* * * *

The HUD Area ONAP shall review the request for legal sufficiency, tribal acceptance, demonstration of family interest, and financial feasibility. * * *

9. On page 18237, in column one, § 950.553 is corrected by revising paragraph (c), to read as follows:

§ 950.553 Testing and abatement applicable to development.

(c) * * *

(c) *Compliance with guidelines.* It is strongly encouraged, but not required, that all such properties be tested in accordance with the Lead-Based Paint Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (hereafter Lead-Based Paint Interim Guidelines), as periodically amended or updated, and other future official departmental issuances related to lead-based paint, before any irrevocable commitment is made to acquire the property. The Lead-Based Paint Interim Guidelines are available by contacting the following office: Department of Housing and Urban Development, Office of Lead-Based Paint Abatement and Poisoning Prevention, Room B-133, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 755-1805. Properties that have already been tested in accordance with the Lead-Based Paint Poisoning Prevention Act as amended by the Housing and Community Development Act of 1987 need not be tested again. If lead-based paint is found in a property to be acquired, the cost of testing and abatement shall be considered when making the cost comparison to justify new construction, as well as when meeting maximum total development cost limitations.

* * * * *

10. On page 18237, in column three, § 950.570 is corrected by revising paragraph (c), to read as follows:

§ 950.570 Procedures involving EBLs.

* * * * *

(c) *Testing.* Testing shall be completed within five days after notification to the IHA of the identification of the EBL child. It is strongly recommended, but not required, that IHAs use the testing methods outlined in Part II of the Lead-Based Paint Interim Guidelines, as periodically amended or updated, and other future official departmental issuances related to lead-based paint. A qualified inspector or laboratory shall certify in writing the precise results of the inspection. Testing services available from State, local, or tribal health or housing agencies or an organization recognized by HUD shall be utilized to the extent available. If the results equal or exceed a level of 1 mg/cm² or .5% by weight, the results shall be provided to the tenant or the family of the EBL child using the IHA-owned or operated child care facility. Testing will be considered an eligible modernization cost under subpart I of this part only upon IHA certification

that testing services are otherwise unavailable.

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Dated: June 28, 1995.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

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BILLING CODE 4210-33-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8228]

Allocation and Apportionment of Interest Expense

CFR Correction

In title 26 of the Code of Federal Regulations, part 1, §§ 1.851 to 1.907, revised as of April 1, 1995, on page 140, § 1.861-8(e)(2) is corrected to read as follows:

§ 1.861-8 Computation of taxable income from sources inside the United States and from other sources and activities.

* * * * *

(e) *Allocation and apportionment of certain deductions.*

* * * * *

(2) *Interest.* [Reserved] For guidance, see § 1.861-8T(e)(2).

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BILLING CODE 1505-01-D

26 CFR Part 1

[TD 8598]

RIN 1545-AT50

Consolidated Groups—Intercompany Transactions and Related Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide rules for disallowing loss and excluding gain for certain dispositions and other transactions involving stock of the common parent of a consolidated group. These temporary regulations are necessary to prevent taxpayers from recognizing certain gains and losses on common parent stock that would not be recognized if a consolidated group were treated as a single entity. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed

rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These regulations are effective July 12, 1995.

For dates of applicability, see the effective date provision of the temporary regulations.

FOR FURTHER INFORMATION CONTACT: Victor Penico, (202) 622-7750 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 1502. These temporary regulations provide rules for disallowing loss and excluding gain for certain dispositions and other transactions involving stock of the common parent of a consolidated group.

Final regulations published in this issue of the **Federal Register** provide rules for the treatment of intercompany transactions. The regulations generally provide greater single entity treatment of intercompany transactions than prior regulations under §§ 1.1502-13 and -14.

For intercompany transactions with respect to stock of a member, however, the final regulations generally adopt separate entity treatment, similar to the treatment under prior § 1.1502-14. For example, stock is generally treated as an asset separate from the member's underlying assets and, if a member's stock is sold in an intercompany transaction, gain or loss from the stock sale is taken into account under the matching and acceleration rules that apply to other assets. The regulations adopt this approach in part because greater single entity treatment would significantly increase the complexity of the regulations. See Notice 94-49, 1994-18 I.R.B. 8, for a discussion of issues relating to the single entity treatment of stock.

The Treasury and the IRS are continuing to study whether greater single entity treatment of stock is appropriate or possible. While finalizing the intercompany transaction regulations, however, the Treasury and the IRS have become aware that consolidated groups are relying on the separate entity treatment of stock to claim losses on capital raising and other transactions. For example, taxpayers might seek to take advantage of separate entity treatment by having a subsidiary (S) purchase the stock of the common parent (P) from P. If the value of the P stock has gone down at a time when the group wants to issue P stock, S will sell its P stock at a loss and claim the losses, even though in a sale of the stock by P,